

Title 36: TAXATION
Chapter 211: GENERAL PROVISIONS

Table of Contents

Part 3. SALES AND USE TAX.....	
Section 1751. SHORT TITLE.....	3
Section 1752. DEFINITIONS.....	3
Section 1752-A. RESIDENCE (REPEALED).....	14
Section 1753. TAX IS A LEVY ON CONSUMER.....	15
Section 1754. REGISTRATION OF SELLERS (REPEALED).....	15
Section 1754-A. REGISTRATION OF OWNERS OF SPACE TEMPORARILY RENTED AS RETAIL SPACE.....	15
Section 1754-B. REGISTRATION OF SELLERS.....	15
Section 1755. NO REGISTRATION UNLESS TAX PAID.....	19
Section 1756. VOLUNTARY REGISTRATION.....	19
Section 1757. REVOCATION OF REGISTRATION.....	20
Section 1758. USE TAX ON INTERIM RENTAL OF PROPERTY PURCHASED FOR RESALE.....	20
Section 1759. BONDS.....	21
Section 1760. EXEMPTIONS.....	21
Section 1760-A. LEGISLATIVE REVIEW OF SALES TAX EXEMPTIONS (REPEALED).....	42
Section 1760-B. CONSISTENCY (REPEALED).....	42
Section 1760-C. EXEMPT ACTIVITIES.....	42
Section 1760-D. EXEMPTIONS OF CERTAIN PRODUCTS; INFORMATION POSTED ON PUBLICLY ACCESSIBLE WEBSITE.....	42
Section 1761. ADVERTISING OF PAYMENT BY RETAILER.....	43
Section 1762. SALE OF BUSINESS; PURCHASER LIABLE FOR TAX (REPEALED).....	43
Section 1763. PRESUMPTIONS.....	43
Section 1764. TAX AGAINST CERTAIN CASUAL SALES.....	44
Section 1765. TRADE-IN CREDIT.....	44

Maine Revised Statutes
Title 36: TAXATION
Chapter 211: GENERAL PROVISIONS

§1751. SHORT TITLE

Chapters 211 to 225 shall be known and may be cited as the "Sales and Use Tax Law."

§1752. DEFINITIONS

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. Advertise. "Advertise" means to make a public announcement by any means whatsoever, including a notice or announcement in a radio or televised broadcast, newspaper, magazine, catalog, circular, handbill, sign, placard or billboard.

[2007, c. 627, §36 (AMD) .]

1-A. Aircraft. "Aircraft" means any powered contrivance designed for navigation in the air except a rocket or missile.

[1975, c. 317, §1 (NEW) .]

1-B. Automobile. "Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a gross vehicle weight rating of 10,000 pounds or less.

[2011, c. 644, §9 (AMD); 2011, c. 644, §33 (AFF) .]

1-C. Business. "Business" includes any activity engaged in with the object of gain, benefit or advantage, either direct or indirect.

[2011, c. 240, §16 (AMD) .]

1-D. Casual sale. "Casual sale" means an isolated transaction in which tangible personal property or a taxable service is sold other than in the ordinary course of repeated and successive transactions of like character by the person making the sale. "Casual sale" includes transactions at a bazaar, fair, rummage sale, picnic or similar event by a civic, religious or fraternal organization that is not a registered retailer. The sale by a registered retailer of tangible personal property that that retailer has used in the course of the retailer's business is not a casual sale if that property is of like character to that sold by the retailer in the ordinary course of repeated and successive transactions. "Casual sale" does not include any transaction in which a retailer sells tangible personal property or a taxable service on behalf of the owner of that property or the provider of that service.

[2005, c. 218, §12 (AMD) .]

1-E. Custom computer software program. "Custom computer software program" means any computer software that is written or prepared exclusively for a particular customer. "Custom computer software program" does not include a "canned" or prewritten program that is held or exists for a general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house

use. An existing prewritten program that has been modified to meet a particular customer's needs is a "custom computer software program" to the extent of the modification, and to the extent that the amount charged for the modification is separately stated.

[1997, c. 557, Pt. B, §1 (NEW); 1997, c. 557, Pt. B, §14 (AFF); 1997, c. 557, Pt. G, §1 (AFF) .]

1-F. Clean fuel.

[2007, c. 627, §38 (RP) .]

1-G. Clean fuel vehicle.

[2007, c. 627, §39 (RP) .]

1-H. Commercial groundfishing boat.

[2011, c. 548, §14 (RP) .]

2. Business.

[1987, c. 497, §16 (RP) .]

2-A. Directly. "Directly," when used in relation to production of tangible personal property, refers to those activities or operations which constitute an integral and essential part of production, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to production.

[1977, c. 477, §5 (NEW) .]

2-B. Extended cable television services.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §7 (RP) .]

2-C. Fabrication services.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §8 (RP) .]

2-D. Forest land. "Forest land" means land used primarily for the growth of trees to be harvested for commercial use.

[2007, c. 658, §1 (NEW) .]

2-E. Forest products. "Forest products" means logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed crops.

[2007, c. 658, §2 (NEW) .]

3. Farm tractor. "Farm tractor" means any self-propelled vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

3-A. Food products.

[1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. WW, §4 (AFF); 1991, c. 528, Pt. WW, §1 (RP) .]

3-B. Grocery staples. "Grocery staples" means food products ordinarily consumed for human nourishment.

"Grocery staples" does not include spirituous, malt or vinous liquors; soft drinks, iced tea, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection with bars or soda fountains; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice; dietary substitutes; candy and confections; and prepared food.

[1999, c. 698, §1 (AMD); 1999, c. 698, §3 (AFF) .]

3-C. Flea market.

[1993, c. 395, §14 (RP) .]

3-D. Furniture.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §9 (RP) .]

3-E. Home service provider.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §10 (RP) .]

4. Hotel. "Hotel" means every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests and tenants.

5. In this State or in the State. "In this State" or "in the State" means within the exterior limits of the State of Maine and includes all territory within these limits owned by or ceded to the United States of America.

5-A. Products for internal human consumption. "Products for internal human consumption" means edible products sold for human nutrition or refreshment and containers or utensils provided simultaneously for the consumption of these products. It does not include spirituous, malt or vinous liquors, medicines, tonics, vitamins, dietary supplements or cigarettes.

[2009, c. 496, §14 (AMD) .]

5-B. Liquor. "Liquor" has the same meaning as in Title 28-A, section 2, subsection 16.

[1989, c. 588, Pt. B, §1 (NEW) .]

5-C. Loaner vehicle. "Loaner vehicle" means an automobile to be provided to a motor vehicle dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 1171, subsection 6.

[2007, c. 627, §40 (NEW) .]

6. Living quarters. "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations, and tent or trailer space.

6-A. Manufacturing facility. "Manufacturing facility" means a site at which are located machinery and equipment used directly and primarily in either the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof. It includes the machinery and equipment and all machinery, equipment, structures and facilities located at the site and used in support of production or associated with the production. "Manufacturing facility" does not include a site at which a retailer is primarily engaged in making retail sales of tangible personal property not produced by the retailer.

[2007, c. 627, §41 (AMD) .]

6-B. Mobile telecommunications services.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §11 (RP) .]

6-C. Manufactured housing. "Manufactured housing" has the same meaning as defined in Title 10, section 9002, subsection 7.

[2005, c. 618, §1 (NEW) .]

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle and a snowmobile as defined in Title 12, section 13001.

[2003, c. 414, Pt. B, §60 (AMD); 2003, c. 614, §9 (AFF) .]

7-A. Vehicle. "Vehicle" has the same meaning ascribed to that term by Title 29-A, section 101, subsection 91.

[1995, c. 65, Pt. A, §140 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

7-B. Machinery and equipment. "Machinery and equipment" means machinery, equipment and parts and attachments for machinery and equipment, but excludes foundations for machinery and equipment and special purpose buildings used to house or support machinery and equipment.

[1985, c. 276, §1 (RPR) .]

7-C. Nonprofit. "Nonprofit" refers to an organization which has been determined by the United States Internal Revenue Service to be exempt from taxation under Section 501(c) of the Code.

[2005, c. 218, §13 (AMD) .]

7-D. Network elements.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §12 (RP) .]

7-E. Place of primary use.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §13 (RP) .]

8. Passenger automobile.

[1981, c. 706, §19 (RP) .]

8-A. Prepared food. "Prepared food" means:

A. Meals served on or off the premises of the retailer; [2001, c. 439, Pt. TTTT, §1 (NEW); 2001, c. 439, Pt. TTTT, §3 (AFF).]

B. Food and drinks that are prepared by the retailer and ready for consumption without further preparation; and [2001, c. 439, Pt. TTTT, §1 (NEW); 2001, c. 439, Pt. TTTT, §3 (AFF).]

C. All food and drinks sold from an establishment whose sales of food and drinks that are prepared by the retailer account for more than 75% of the establishment's gross receipts. [2001, c. 439, Pt. TTTT, §1 (NEW); 2001, c. 439, Pt. TTTT, §3 (AFF).]

"Prepared food" does not include bulk sales of grocery staples.

[2001, c. 439, Pt. TTTT, §3 (AFF); 2001, c. 439, Pt. TTTT, §1 (RPR) .]

8-B. Prepaid calling service. "Prepaid calling service" means the right to access exclusively telecommunications services that must be paid for in advance that enables the origination of calls using an access number or authorization code or both, whether manually or electronically dialed, and that is sold in predetermined units or dollars, the number of which declines with use in a known amount. The sale or recharge of the service is considered a sale within the State if the transfer for consideration takes place at the vendor's place of business in the State. If the sale or recharge of prepaid calling service does not take place at the vendor's place of business, the sale or recharge is deemed to take place at the customer's shipping address, or if there is no item shipped, at the customer's billing address or the location associated with the customer's mobile telephone number. The sale of the service is deemed to occur on the date of the transfer for consideration of the service.

[2003, c. 673, Pt. V, §14 (AMD); 2003, c. 673, Pt. V, §29 (AFF) .]

8-C. Positive airway pressure equipment and supplies. "Positive airway pressure equipment and supplies" means continuous positive air pressure and bilevel positive air pressure equipment and supplies, and repair and replacement parts for such equipment, used in respiratory ventilation.

[2011, c. 655, Pt. PP, §1 (NEW); 2011, c. 655, Pt. PP, §4 (AFF) .]

9. Person.

[2003, c. 390, §6 (RP) .]

9-A. Primarily. "Primarily," when used in relation to machinery or equipment used in production, means more than 50% of the time during the period that begins on the date on which the machinery or equipment is first placed in service by the purchaser and ends 2 years from that date or at the time that the machinery or equipment is sold, scrapped, destroyed or otherwise permanently removed from service by the taxpayer, whichever occurs first.

[2001, c. 583, §11 (AMD); 2001, c. 583, §23 (AFF) .]

9-B. Production. "Production" means an operation or integrated series of operations engaged in as a business or segment of a business that transforms or converts personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. "Production" includes film production.

"Production" includes manufacturing, processing, assembling and fabricating operations that meet the definitional requisites, including biological processes that are part of an integrated process of manufacturing organisms or microorganic materials through the application of biotechnology.

"Production" does not include biological processes except as otherwise provided by this subsection, wood harvesting operations, the severance of sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, or activities such as cooking or preparing drinks, meals, food or food products by a retailer for retail sale.

[2005, c. 332, §13 (AMD) .]

9-C. Rental of automobile on short-term basis.

[1987, c. 497, §20 (RP) .]

9-D. Reseller.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §15 (RP) .]

9-E. Product transferred electronically. "Product transferred electronically" means a digital product transferred to the purchaser electronically the sale of which in nondigital physical form would be subject to tax under this Part as a sale of tangible personal property.

[2013, c. 368, Pt. N, §1 (NEW) .]

10. Retailer. "Retailer" means a person who makes retail sales or who is required to register by section 1754-A or 1754-B or who is registered under section 1756.

[1997, c. 393, Pt. A, §41 (RPR) .]

11. Retail sale. "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business.

A. "Retail sale" includes:

- (1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;
- (2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;
- (3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and
- (4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:
 - (a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or
 - (b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates. [2007, c. 437, §10 (AMD) .]

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;
- (7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;
- (9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;
- (10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;
- (11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;
- (12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;
- (13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale;
- (14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration;
- (15) The sale of positive airway pressure equipment and supplies for rental for personal use to a person engaged in the business of renting positive airway pressure equipment;
- (16) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental; or
- (17) The sale of truck repair parts used in the performance of repair services on a truck pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the truck for a specific duration. [2013 , c. 156 , §1 (RPR) .]

[2013 , c. 156 , §1 (AMD) .]

11-A. Retirement facility. "Retirement facility" means a facility that includes residential dwelling units where, on an average monthly basis, at least 80% of the residents of the facility are persons 62 years of age or older.

[2011, c. 380, Pt. DDDD, §1 (NEW); 2011, c. 380, Pt. DDDD, §§5, 6 (AFF) .]

12. Rooming house. "Rooming house" means every house, cottage, condominium unit, vacation home, boat, vehicle, motor court, trailer court or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

[2005, c. 12, Pt. O, §1 (AMD); 2005, c. 12, Pt. O, §5 (AFF) .]

12-A. Rural community health center. "Rural community health center" means a person that delivers, or provides facilities for the delivery of, comprehensive primary health care in a place or territory that is classified as rural according to the most recent federal decennial census.

[2003, c. 588, §4 (NEW) .]

13. Sale. "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase.

[1981, c. 706, §20 (AMD) .]

13-A. Sale at retail. "Sale at retail" means retail sale.

[1987, c. 497, §23 (NEW) .]

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Any consideration for services that are a part of a retail sale; and
 - (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.
- [2007, c. 627, §43 (AMD) .]

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, restaurant or other eating establishment to its employees as wages;

- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers', importers', alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1;
- (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;
- (11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival;
- (12) The premium imposed on motor vehicle oil by Title 10, section 1020, subsection 6-A; or
- (13) Any amount charged for the disposal of used tires. [2011, c. 211, §22 (AMD) .]

[2011, c. 211, §22 (AMD) .]

14-A. Solar energy equipment.

[1985, c. 506, Pt. A, §75 (RP) .]

14-B. Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways, including, but not limited to, road construction or maintenance machinery, farm tractors, lumber harvesting vehicles or loaders, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment.

[1997, c. 133, §1 (AMD) .]

14-C. Snack food.

[1999, c. 698, §3 (AFF); 1999, c. 698, §2 (RP) .]

14-D. Serving carrier.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §17 (RP) .]

14-E. School. "School" means a public or incorporated nonprofit elementary, secondary or postsecondary educational institution that has a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keeps and furnishes to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank.

[2007, c. 438, §30 (AMD) .]

15. Storage. "Storage" includes any keeping or retention in this State of tangible personal property.

[2005, c. 218, §16 (AMD) .]

16. Storage or use. "Storage" or "use" does not include keeping or retention or the exercise of power over tangible personal property brought into this State for the purpose of subsequently transporting it outside the State for use by the purchaser thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used by the purchaser solely outside the State.

[1965, c. 114, (AMD) .]

17. Tangible personal property. "Tangible personal property" means personal property that may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but does not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership. "Tangible personal property" includes electricity. "Tangible personal property" includes any computer software that is not a custom computer software program. "Tangible personal property" includes any product transferred electronically.

[2013, c. 546, §9 (AMD) .]

17-A. Taxable service.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §18 (RP) .]

17-B. Taxable service. "Taxable service" means the rental of living quarters in a hotel, rooming house or tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile, a camper trailer, or a motor home, as defined in Title 29-A, section 101, subsection 40; the rental or lease of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds from a person primarily engaged in the business of renting automobiles; the sale of an extended service contract on an automobile or truck that entitles the purchaser to specific benefits in the service of the automobile or truck for a specific duration; and the sale of prepaid calling service.

[2013, c. 156, §2 (AMD) .]

18. Tax Assessor.

[1979, c. 378, §8 (RP) .]

18-A. Telephone or telegraph service.

[1999, c. 488, §8 (RP) .]

18-B. Telephone or telegraph service.

[1999, c. 488, §9 (RP) .]

18-C. Telecommunications equipment.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §20 (RP) .]

18-D. Telecommunications services.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §21 (RP) .]

19. Tourist camp. "Tourist camp" means a place where tents or tent houses, or camp cottages or other structures are located and offered to the public or any segment thereof for human habitation.

19-A. Trailer. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A but without restriction on length.

[2009, c. 207, §1 (AMD) .]

20. Trailer camp. "Trailer camp" means a place with or without service facilities where space is offered to the public for tenting or for the parking and accommodation of camper trailers, motor homes or truck campers used for living quarters. The rental price includes all service charges paid to the lessor.

[2007, c. 627, §44 (AMD) .]

20-A. Truck camper. "Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use.

[1991, c. 788, §5 (NEW) .]

20-B. Truck. "Truck" means a self-propelled motor vehicle with at least 4 wheels designed and used primarily to carry property, not designed to run on tracks and having a gross vehicle weight rating greater than 10,000 pounds. A truck may be used to tow trailers or semitrailers.

[2013, c. 156, §3 (NEW) .]

21. Use. "Use" includes the exercise in this State of any right or power over tangible personal property incident to its ownership, including the derivation of income, whether received in money or in the form of other benefits, by a lessor from the rental of tangible personal property located in this State.

[2005, c. 215, §17 (AMD) .]

22. Camper trailer. "Camper trailer" has the same meaning as in section 1481, but without any restriction on length.

[1987, c. 49, §1 (NEW) .]

23. Video media; video equipment.

[2003, c. 673, Pt. V, §29 (AFF); 2003, c. 673, Pt. V, §22 (RP) .]

24. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft.

[1989, c. 871, §9 (NEW) .]

SECTION HISTORY

1965, c. 114, (AMD). 1965, c. 361, (AMD). 1965, c. 362, §§1-4 (AMD).
 1971, c. 479, (AMD). 1975, c. 317, §1 (AMD). 1975, c. 359, (AMD).
 1975, c. 450, (AMD). 1975, c. 702, §5 (AMD). 1975, c. 765, §19 (AMD).
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 (AMD). 1979, c. 292, §1 (AMD). 1979, c. 342, (AMD). 1979, c. 378,
 §8 (AMD). 1979, c. 541, §A220 (AMD). 1979, c. 686, §1 (AMD). 1981,
 c. 163, §§1,2 (AMD). 1981, c. 705, §R1 (AMD). 1981, c. 706, §§19,20
 (AMD). 1983, c. 560, §§1,6 (AMD). 1983, c. 828, §4 (AMD). 1983, c.

859, §§M1-M2,M13 (AMD). 1985, c. 276, §§1,2 (AMD). 1985, c. 506, §A75 (AMD). 1985, c. 691, §8 (AMD). 1985, c. 767, §§1,2,4 (AMD). 1985, c. 783, §§1-3 (AMD). 1985, c. 819, §§C6,7 (AMD). 1987, c. 49, §1 (AMD). 1987, c. 128, §1 (AMD). 1987, c. 343, §3 (AMD). 1987, c. 497, §§15-25 (AMD). 1989, c. 501, §§V1-5,V5,V6 (AMD). 1989, c. 533, §§1-4,14 (AMD). 1989, c. 588, §§B1,C2 (AMD). 1989, c. 847, §1 (AMD). 1989, c. 871, §§5-9 (AMD). 1991, c. 528, §§WW1,2 (AMD). 1991, c. 528, §§WW4,RRR (AFF). 1991, c. 546, §16 (AMD). 1991, c. 591, §§WW1,2 (AMD). 1991, c. 591, §WW4 (AFF). 1991, c. 780, §CCC1 (AMD). 1991, c. 788, §5 (AMD). 1991, c. 846, §17 (AMD). 1993, c. 395, §14 (AMD). 1993, c. 670, §1 (AMD). 1993, c. 701, §§1-5 (AMD). 1995, c. 65, §A140 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 281, §§11-14 (AMD). 1995, c. 281, §42 (AFF). 1995, c. 477, §§1,2 (AMD). 1995, c. 639, §8 (AMD). 1995, c. 640, §1 (AMD). 1997, c. 133, §1 (AMD). 1997, c. 393, §A41 (AMD). 1997, c. 557, §§B1-3 (AMD). 1997, c. 557, §D1 (AMD). 1997, c. 557, §§D4,G1 (AFF). 1997, c. 557, §§B14,G1 (AFF). 1997, c. 668, §§22,23 (AMD). 1997, c. 791, §A1 (AMD). 1999, c. 414, §§15-17 (AMD). 1999, c. 488, §§2-10 (AMD). 1999, c. 516, §§1-5 (AMD). 1999, c. 516, §7 (AFF). 1999, c. 521, §A5 (AMD). 1999, c. 521, §A11 (AFF). 1999, c. 698, §§1,2 (AMD). 1999, c. 698, §3 (AFF). 1999, c. 708, §§22,23 (AMD). 1999, c. 790, §§A42,44-46 (AMD). 1999, c. 790, §§A43,47 (AFF). 2001, c. 396, §§21,22 (AMD). 2001, c. 439, §TTTT1 (AMD). 2001, c. 439, §TTTT3 (AFF). 2001, c. 526, §§1,2 (AMD). 2001, c. 583, §11 (AMD). 2001, c. 583, §23 (AFF). 2001, c. 584, §§2-8 (AMD). 2001, c. 584, §10 (AFF). 2003, c. 390, §§6-8 (AMD). 2003, c. 414, §B60 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 588, §§3-5 (AMD). 2003, c. 614, §9 (AFF). 2003, c. 673, §§V7-22 (AMD). 2003, c. 673, §V29 (AFF). 2005, c. 12, §§O1,TTT1 (AMD). 2005, c. 12, §§O5,TTT4 (AFF). 2005, c. 218, §§11-17 (AMD). 2005, c. 332, §13 (AMD). 2005, c. 618, §1 (AMD). 2005, c. 675, §1 (AMD). 2005, c. 675, §2 (AFF). RR 2007, c. 2, §30 (AFF). 2007, c. 240, Pt. WWW, §1 (AMD). 2007, c. 375, §1 (AMD). 2007, c. 410, §§1, 2 (AMD). 2007, c. 410, §6 (AFF). 2007, c. 437, §10 (AMD). 2007, c. 438, §30 (AMD). 2007, c. 627, §§36-44 (AMD). 2007, c. 627, §96 (AFF). 2007, c. 658, §§1, 2 (AMD). 2007, c. 693, §14 (AMD). 2009, c. 207, §1 (AMD). 2009, c. 434, §§22, 23 (AMD). 2009, c. 434, §86 (AFF). 2009, c. 496, §§14, 15 (AMD). 2009, c. 496, §30 (AFF). 2009, c. 625, §4 (AMD). 2009, c. 625, §§16, 18 (AFF). 2009, c. 652, Pt. C, §8 (AFF). 2011, c. 209, §§1, 2 (AMD). 2011, c. 209, §5 (AFF). 2011, c. 211, §22 (AMD). 2011, c. 240, §16 (AMD). 2011, c. 296, §1 (AMD). 2011, c. 380, Pt. DDDD, §1 (AMD). 2011, c. 380, Pt. DDDD, §§5, 6 (AFF). 2011, c. 548, §14 (AMD). 2011, c. 644, §9 (AMD). 2011, c. 644, §33 (AFF). 2011, c. 655, Pt. PP, §§1, 2 (AMD). 2011, c. 655, Pt. PP, §4 (AFF). 2011, c. 684, §§1, 2 (AMD). 2011, c. 684, §3 (AFF). 2013, c. 156, §§1-3 (AMD). 2013, c. 368, Pt. N, §1 (AMD). 2013, c. 546, §9 (AMD).

§1752-A. RESIDENCE

(REPEALED)

SECTION HISTORY

1999, c. 414, §18 (NEW). 2007, c. 438, §31 (RP).

§1753. TAX IS A LEVY ON CONSUMER

The tax imposed by this Part is declared to be a levy on the consumer. The retailer shall add the amount of the tax to the sale price and may state the amount of the tax separately from the sale price of tangible personal property or taxable services on price display signs, sales or delivery slips, bills and statements that advertise or indicate the sale price of that property or those services. If the retailer does not state the amount of the tax separately from the sale price of tangible personal property or taxable services, the retailer shall include a statement on the sales slip or invoice presented to the purchaser that the stated price includes Maine sales tax. [2011, c. 285, §2 (AMD).]

SECTION HISTORY

1987, c. 497, §26 (RPR). 2011, c. 285, §2 (AMD).

§1754. REGISTRATION OF SELLERS

(REPEALED)

SECTION HISTORY

1965, c. 362, §5 (AMD). 1977, c. 198, §5 (AMD). 1977, c. 694, §§700,701 (AMD). 1979, c. 268, (AMD). 1983, c. 859, §§M3,M13 (AMD). 1987, c. 497, §§27-34 (AMD). 1989, c. 880, §H (AMD). 1995, c. 640, §2 (RP).

§1754-A. REGISTRATION OF OWNERS OF SPACE TEMPORARILY RENTED AS RETAIL SPACE

A person who rents or leases space to more than 4 persons at one location for less than a 12-month period for the purpose of making retail sales shall register with the State Tax Assessor. The form for application for registration and the registration certificates must be prescribed and furnished free of charge by the assessor. For each location where more than 4 persons rent or lease space for less than 12 months from the same person, the assessor shall issue a registration certificate, which must be conspicuously displayed at that location. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act. [2011, c. 644, §10 (AMD); 2011, c. 644, §35 (AFF).]

A person required to register with the assessor under this section may not rent or lease space to a person for the purpose of making retail sales without verifying that the person is the holder of a valid registration certificate issued by the assessor under section 1754-B. Each person required to register with the assessor under this section shall maintain a list subject to the requirements of section 135, subsection 1 that includes the names, addresses and sales tax registration certificate numbers of those persons who have rented or leased space at that location for the purpose of making retail sales and the dates on which those rentals or leases occurred. [2011, c. 644, §10 (NEW); 2011, c. 644, §35 (AFF).]

SECTION HISTORY

1991, c. 780, §CCC2 (NEW). 2003, c. 390, §9 (AMD). 2011, c. 644, §10 (AMD). 2011, c. 644, §35 (AFF).

§1754-B. REGISTRATION OF SELLERS

1. Persons required to register. Except as otherwise provided in this section, the following persons, other than casual sellers, shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part:

A. Every seller of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business; [1995, c. 640, §3 (NEW).]

B. Every seller of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State; [1995, c. 640, §3 (NEW).]

C. Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State; [1995, c. 640, §3 (NEW).]

D. Every person that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution and that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate. For purposes of this paragraph, paragraph E and paragraph G, the following activities do not constitute a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution:

- (1) Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is effected by the United States mail or by an interstate 3rd-party common carrier;
- (2) Attending trade shows, seminars or conventions in this State;
- (3) Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;
- (4) Maintaining a bank account or banking relationship in this State; or
- (5) Using a vendor in this State for printing; [2013, c. 200, §1 (AMD).]

E. Every agent, representative, salesperson, solicitor or distributor that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution and that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use, storage or other consumption in this State; [2013, c. 200, §2 (AMD).]

F. Every person that manages or operates in the regular course of business or on a casual basis a hotel, rooming house or tourist or trailer camp in this State or that collects or receives rents from a hotel, rooming house or tourist or trailer camp in this State; [2005, c. 218, §19 (AMD).]

G. Every seller of tangible personal property or taxable services that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. [2013, c. 200, §3 (AMD).]

H. Every person that makes retail sales in this State of tangible personal property or taxable services on behalf of the owner of that property or the provider of those services; [2009, c. 373, §5 (AMD).]

I. Every person not otherwise required to be registered that sells tangible personal property to the State and is required to register as a condition of doing business with the State pursuant to Title 5, section 1825-B; and [2009, c. 373, §6 (AMD).]

J. Every person that holds a wine direct shipper license under Title 28-A, section 1403-A. [2009, c. 373, §7 (NEW).]

[2013, c. 200, §§1-3 (AMD).]

1-A. Persons presumptively required to register. This subsection defines the basis for and obligations associated with the rebuttable presumption created by this subsection that a seller not registered under subsection 1 is engaged in the business of selling tangible personal property or taxable services for use in this State and is required to register as a retailer with the assessor.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Affiliated person" means a person that is a member of the same controlled group of corporations as the seller or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations. For purposes of this subparagraph, "controlled group of corporations" has the same meaning as in the Code, Section 1563(a).
- (2) "Person" means an individual or entity that qualifies as a person under the Code, Section 7701(a)(1).
- (3) "Seller" means a person that sells, other than in a casual sale, tangible personal property or taxable services. [2013 , c . 200 , §4 (NEW) .]

B. A seller is presumed to be engaged in the business of selling tangible personal property or taxable services for use in this State if an affiliated person has a substantial physical presence in this State or if any person, other than a person acting in its capacity as a common carrier, that has a substantial physical presence in this State:

- (1) Sells a similar line of products as the seller and does so under a business name that is the same as or similar to that of the seller;
- (2) Maintains an office, distribution facility, warehouse or storage place or similar place of business in the State to facilitate the delivery of property or services sold by the seller to the seller's customers;
- (3) Uses trademarks, service marks or trade names in the State that are the same as or substantially similar to those used by the seller;
- (4) Delivers, installs, assembles or performs maintenance services for the seller's customers within the State;
- (5) Facilitates the seller's delivery of property to customers in the State by allowing the seller's customers to pick up property sold by the seller at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in the State; or
- (6) Conducts any activities in the State that are significantly associated with the seller's ability to establish and maintain a market in the State for the seller's sales.

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part. A seller may rebut the presumption created in this paragraph by demonstrating that the person's activities in the State are not significantly associated with the seller's ability to establish or maintain a market in this State for the seller's sales. [2013 , c . 546 , §10 (AMD) .]

C. A seller that does not otherwise meet the requirements of paragraph B is presumed to be engaged in the business of selling tangible personal property or taxable services for use in this State if the seller enters into an agreement with a person under which the person, for a commission or other consideration, while within this State:

- (1) Directly or indirectly refers potential customers, whether by a link on an Internet website, by telemarketing, by an in-person presentation or otherwise, to the seller; and
- (2) The cumulative gross receipts from retail sales by the seller to customers in the State who are referred to the seller by all persons with this type of an agreement with the seller are in excess of \$10,000 during the preceding 12 months.

A seller who meets the requirements of this paragraph shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part.

A seller may rebut the presumption created in this paragraph by submitting proof that the person with whom the seller has an agreement did not engage in any activity within the State that was significantly associated with the seller's ability to establish or maintain the seller's market in the State during the preceding 12 months. Such proof may consist of sworn, written statements from all of the persons within this State with whom the seller has an agreement stating that they did not engage in any solicitation in the State on behalf of the seller during the preceding 12 months; these statements must be provided and obtained in good faith.

A person who enters into an agreement with a seller under this paragraph to refer customers by a link on an Internet website is not required to register or collect taxes under this Part solely because of the existence of the agreement. [2013, c. 200, §4 (NEW); 2013, c. 200, §6 (AFF) .]

[2013, c. 546, §10 (AMD) .]

2. Registration certificates. Application forms for sales tax registration certificates must be prescribed and furnished free of charge by the assessor. The assessor shall issue a registration certificate to each applicant that properly completes and submits an application form. A separate application must be completed and a separate registration certificate issued for each place of business. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act. Each application for a registration certificate must contain a statement as to the type or types of tangible personal property that the applicant intends to purchase for resale and the type or types of taxable services that the applicant intends to sell, and each retailer registered under this section must inform the assessor in writing of any changes to the type or types of tangible personal property that it purchases for resale or to the type or types of taxable services that it sells.

If the retailer maintains a place of business in this State, the retailer shall make available a copy of the registration certificate issued for that place of business at that place of business for inspection by the assessor, the assessor's representatives and agents or authorized municipal officials. If the retailer does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle is deemed to be a place of business.

[2011, c. 535, §5 (AMD) .]

2-A. Making sales after revocation. A person whose sales tax registration certificate has been revoked by the assessor pursuant to section 1757 who continues to make retail sales in this State commits a Class D crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. U, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2-B. Provisional resale certificates; new accounts. The assessor shall issue a provisional resale certificate to each applicant for initial registration that states on its application that it expects to make annual gross sales of \$3,000 or more. A provisional resale certificate issued between January 1st and September 30th is effective for the duration of the calendar year in which it is issued and the 2 subsequent years. A provisional resale certificate issued between October 1st and December 31st is effective until the end of the 3rd succeeding calendar year. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

[2005, c. 519, Pt. 000, §1 (AMD) .]

2-C. Issuance and renewal of resale certificates; contents; presentation to vendor. On November 1st of each year, the assessor shall review the returns filed by each registered retailer unless the retailer has a resale certificate expiring after December 31st of that year. If the retailer reports \$3,000 or more in gross sales during the 12 months preceding the assessor's review, the assessor shall issue to the registered retailer a resale

certificate effective for 5 calendar years. Each certificate must contain the name and address of the retailer, the expiration date of the certificate and the certificate number. If a vendor has a true copy of a retailer's resale certificate on file, that retailer need not present the certificate for each subsequent transaction with that vendor during the period for which it is valid.

A registered retailer that fails to meet the \$3,000 threshold upon the annual review of the assessor is not entitled to renewal of its resale certificate except as provided in this subsection. When any such retailer shows that its gross sales for a more current 12-month period total \$3,000 or more or explains to the satisfaction of the assessor why temporary extraordinary circumstances caused its gross sales for the period used for the assessor's annual review to be less than \$3,000, the assessor shall, upon the written request of the retailer, issue to the retailer a resale certificate effective for the next 5 calendar years.

[2013, c. 588, Pt. A, §45 (AMD) .]

3. Failure to register. A person who is required by this section to register as a retailer with the assessor and who makes retail sales in this State without being so registered commits a Class E crime. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. U, §4 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1995, c. 640, §3 (NEW). 1997, c. 504, §8 (AMD). 2003, c. 452, §§U3,4 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 673, §§AAA1,2 (AMD). 2005, c. 12, §O2 (AMD). 2005, c. 12, §O5 (AFF). 2005, c. 218, §§18-21 (AMD). 2005, c. 519, §OOO1 (AMD). 2007, c. 328, §§5-7 (AMD). 2009, c. 373, §§5-7 (AMD). 2009, c. 496, §17 (AMD). 2011, c. 535, §5 (AMD). 2013, c. 200, §§1-4 (AMD). 2013, c. 200, §6 (AFF). 2013, c. 331, Pt. A, §1 (AMD). 2013, c. 546, §10 (AMD). 2013, c. 588, Pt. A, §45 (AMD).

§1755. NO REGISTRATION UNLESS TAX PAID

Whenever tangible personal property is required by the laws of this State to be registered for use within the State the applicant for registration, whether or not the owner, must either pay the sales tax or use tax or prove that the tax is not due. The applicant shall file a dealer's certificate or use tax certificate with the registering agency in a form prescribed by the State Tax Assessor reporting the name of the seller, the date of purchase, the sale price and other information pertinent to determination of tax liability. The registering agency shall forward the certificate promptly to the Bureau of Revenue Services. [2007, c. 627, §45 (AMD) .]

SECTION HISTORY

1969, c. 18, (AMD). 1997, c. 526, §14 (AMD). 2007, c. 627, §45 (AMD).

§1756. VOLUNTARY REGISTRATION

Every seller of tangible personal property or taxable services that is not required by section 1754-B to register may register upon those terms that the assessor prescribes. Upon registration, the seller has the rights and duties of a person required to be registered and is subject to the same penalties, except that the seller's liability may be limited to tax actually collected. The seller so registered may at any time surrender the seller's registration certificate and request that the registration certificate be canceled. Upon receipt of the certificate and request, the assessor shall grant the cancellation, if it appears to the assessor that the seller has satisfied all liability to the State and that the seller is not required by law to register. Upon surrender of the certificate, the seller must cease to collect sales or use taxes upon sales that occur on and after the date of the surrender. [1995, c. 640, §4 (RPR) .]

SECTION HISTORY

1971, c. 20, (AMD). 1987, c. 497, §35 (AMD). 1995, c. 640, §4 (RPR).

§1757. REVOCATION OF REGISTRATION

The State Tax Assessor may revoke the registration certificate of a registrant who fails to file, within 15 days after receipt of notice, a bond or deposit required under section 1759 and may revoke for cause a registration certificate issued under this Part. The assessor may revoke the registration certificate of a registrant who fails to file with the assessor within 15 days after the due date a return as required under this Part. A revocation is reviewable in accordance with section 151. If a registrant fails to pay any tax required by this Part when the tax is shown to be due on a return filed by the registrant, or admitted to be due by the registrant, or has been determined to be due and that determination has become final, notification of the registrant by the assessor as provided in this section operates to suspend the registration certificate from the date of the notice of suspension until the delinquent tax is paid or a bond or deposit required under section 1759 is filed with the assessor or it is determined by an appropriate court that revocation is not warranted. [2007, c. 438, §32 (AMD).]

SECTION HISTORY

1977, c. 694, §702 (RPR). 1979, c. 520, §3 (AMD). 1985, c. 691, §9 (AMD). 2007, c. 438, §32 (AMD).

§1758. USE TAX ON INTERIM RENTAL OF PROPERTY PURCHASED FOR RESALE

1. Definition. As used in this section, unless the context otherwise indicates, the term "rentals" includes any receipts derived from the use of property that is rented or leased.

[1999, c. 708, §24 (NEW) .]

2. Generally; tax imposed on rental payments. This section governs the taxation of tangible personal property that is purchased for resale in this State, other than at casual sale, and upon which no sales tax has been paid pursuant to chapters 211 to 225 when the property is rented or leased after purchase on an interim basis by the purchaser to another person prior to being sold. In lieu of the use tax otherwise imposed by section 1861, a tax is imposed at the same rate as that provided in the case of sales taxes by section 1811 upon all rentals received by the purchaser for the use of that property.

[1999, c. 708, §24 (NEW) .]

3. Exceptions. The purchaser is liable for a use tax on the property based on the purchase price less the aggregate amount of tax paid pursuant to this section on the rentals received by the purchaser in the following circumstances:

A. When the purchaser, after first renting tangible personal property purchased for resale, subsequently makes any use of that property other than as set forth in subsection 2; or [1999, c. 708, §24 (NEW) .]

B. When the purchaser rents the property for a period of 12 months or more to any one person. [1999, c. 708, §24 (NEW) .]

[1999, c. 708, §24 (NEW) .]

4. Other sections applicable. The tax on rentals imposed by this section is subject to section 1812 and all other pertinent provisions of this Part and for the purposes of this Part is treated the same as the sales tax imposed by section 1811 with the lessor deemed to be the retailer, the lease payments deemed to be the sale price and the lessee deemed to be the purchaser and consumer.

[1999, c. 708, §24 (NEW) .]

SECTION HISTORY

1999, c. 708, §24 (RPR).

§1759. BONDS

Either as a condition for issuance or subsequent to the issuance of a registration certificate under section 1754-B, the State Tax Assessor may require from a taxpayer a bond written by a surety company qualified to do business in this State, in an amount and upon conditions to be determined by the assessor. In lieu of a bond the assessor may accept a deposit of money or securities in an amount and of a kind acceptable to the assessor. The deposit must be delivered to the Treasurer of State, who shall safely keep it subject to the instructions of the assessor. [2007, c. 627, §46 (AMD).]

SECTION HISTORY

1979, c. 520, §4 (AMD). 2007, c. 627, §46 (AMD).

§1760. EXEMPTIONS

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with: [1999, c. 521, Pt. A, §6 (AMD).]

1. Exemptions by constitutional provisions. Sales which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

2. Certain governmental entities. Sales to the State or any political subdivision of the State, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption does not apply to corporations organized under Title IV, Part E of the Farm Credit Act of 1971, 12 United States Code, Sections 2211 to 2214.

[2005, c. 622, §5 (AMD) .]

3. Grocery staples. Sales of grocery staples.

A. [1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. WW, §4 (AFF); 1991, c. 528, Pt. WW, §3 (RP); 1991, c. 591, Pt. WW, §4 (AFF); 1991, c. 591, Pt. WW, §3 (RP).]

B. [1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. WW, §4 (AFF); 1991, c. 528, Pt. WW, §3 (RP); 1991, c. 591, Pt. WW, §4 (AFF); 1991, c. 591, Pt. WW, §3 (RP).]

C. [1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. WW, §4 (AFF); 1991, c. 528, Pt. WW, §3 (RP); 1991, c. 591, Pt. WW, §4 (AFF); 1991, c. 591, Pt. WW, §3 (RP).]

D. [1991, c. 528, Pt. RRR, (AFF); 1991, c. 528, Pt. WW, §4 (AFF); 1991, c. 528, Pt. WW, §3 (RP); 1991, c. 591, Pt. WW, §4 (AFF); 1991, c. 591, Pt. WW, §3 (RP).]

E. [1991, c. 824, Pt. A, §73 (RP).]

[1991, c. 824, Pt. A, §73 (AMD) .]

4. Ships' stores. Sale of cabin, deck, engine supplies and bunkering oil to ships engaged in transporting cargo or passengers for hire in interstate or foreign commerce.

[1967, c. 89, (AMD) .]

5. Medicines. Sales of medicines for human beings sold on a doctor's prescription. This subsection does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

[2011, c. 548, §15 (AMD) .]

5-A. Prosthetic devices. Sale of prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity; and sale of crutches and wheelchairs for the use of sick, injured or disabled persons and not for rental.

[2009, c. 434, §24 (AMD) .]

6. Certain meals. Sales of meals:

A. Served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school; [1979, c. 663, §220 (AMD) .]

B. To patients of institutions licensed by the Department of Health and Human Services for the hospitalization or nursing care of human beings, or to patients or residents of institutions licensed by the Department of Health and Human Services under Title 22, Subtitle 6 or Title 22, section 1781; [2007, c. 438, §33 (AMD) .]

C. By hospitals, schools, long-term care facilities, food contractors and restaurants to incorporated nonprofit area agencies on aging for the purpose of providing meals to the elderly; [1999, c. 502, §1 (AMD) .]

D. To residents of incorporated nonprofit church-affiliated congregate housing facilities for the elderly in which at least 75% of the units are available for leasing to eligible lower-income residents; [2007, c. 529, §1 (AMD) .]

E. Served by a college to its employees if the meals are purchased with debit cards issued by the college; [2011, c. 380, Pt. DDDD, §2 (AMD); 2011, c. 380, Pt. DDDD, §§5, 6 (AFF) .]

F. Served by youth camps licensed by the Department of Health and Human Services and defined in Title 22, section 2491, subsection 16; and [2011, c. 380, Pt. DDDD, §3 (AMD); 2011, c. 380, Pt. DDDD, §§5, 6 (AFF) .]

G. Served by a retirement facility to its residents when participation in the meal program is a condition of occupancy or the cost of the meals is included in or paid with a comprehensive fee that includes the right to reside in a residential dwelling unit and meals or other services, whether that fee is charged annually, monthly, weekly or daily. [2011, c. 380, Pt. DDDD, §4 (NEW); 2011, c. 380, Pt. DDDD, §§5, 6 (AFF) .]

[2011, c. 380, Pt. DDDD, §§2-4 (AMD); 2011, c. 380, Pt. DDDD, §§5, 6 (AFF) .]

7. Products used in agricultural and aquacultural production, and bait.

[2005, c. 12, Pt. GGG, §1 (RP) .]

7-A. Products used in aquacultural production and bait. Sales of feed, hormones, pesticides, antibiotics and medicine for use in aquacultural production and sales of bait to commercial fishermen.

[2005, c. 12, Pt. GGG, §2 (NEW) .]

7-B. Products used in commercial agricultural production. Sales of seed, fertilizers, defoliants and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in commercial agricultural production as defined in section 2013, subsection 1, paragraph A.

[2011, c. 657, Pt. N, §1 (AMD); 2011, c. 657, Pt. N, §3 (AFF) .]

7-C. Products used in animal agriculture. Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production and sales of antiseptics and cleaning agents used in commercial animal agricultural production. Animal agricultural production includes the raising and keeping of equines.

[2009, c. 632, §1 (AMD) .]

8. Certain motor fuels. Sales of:

A. Motor fuels upon which a tax at the maximum rate for highway use pursuant to Part 5 or a comparable tax of another state or a province of Canada has been paid; or [2011, c. 548, §16 (AMD) .]

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet engine aircraft. [2011, c. 548, §16 (AMD) .]

C. [1991, c. 546, §18 (RP) .]

D. [2011, c. 548, §16 (RP) .]

[2011, c. 548, §16 (AMD) .]

9. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. Until September 30, 2013, a purchase of 1,000 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection. Beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to meet the requirements of this subsection. A purchase of less than one cord of wood is presumed to meet the requirements of this subsection. For purposes of this subsection, "cord" has the same meaning as in Title 10, section 2302, subsection 1.

[2011, c. 670, §1 (AMD) .]

9-A. Fuels for burning blueberry lands. Sales of all fuels used in burning blueberry fields.

[1973, c. 594, (NEW) .]

9-B. Residential electricity. Sale and delivery of residential electricity as follows:

A. The first 750 kilowatt hours of residential electricity per month; and [2011, c. 673, §1 (NEW) .]

B. Off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device. For the purpose of this paragraph, "off-peak residential electricity" means the off-peak delivery of residential electricity pursuant to tariffs on file with the Public Utilities Commission and the electricity supplied. [2011, c. 673, §1 (NEW) .]

For the purpose of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels. When residential electricity is furnished through one meter to more than one residential unit and when the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For the purpose of this subsection, "delivery" means transmission and distribution;

[2011, c. 673, §1 (RPR) .]

9-C. Residential gas. Sales of gas when bought for cooking and heating in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

[2007, c. 438, §36 (AMD) .]

9-D. Fuel and electricity used at a manufacturing facility. Ninety-five percent of the sale price of all fuel and electricity purchased for use at a manufacturing facility. For purposes of this subsection, "sale price" includes, in the case of electricity, any charge for transmission and distribution.

[1999, c. 414, §20 (AMD) .]

9-E. Electricity consumed in an electrolytic process.

[1989, c. 871, §10 (NEW); T. 36 , §1760, sub-§9-E (RP) .]

9-F. Fuel oil or coal.

[1989, c. 871, §10 (NEW); T. 36 , §1760, sub-§9-F (RP) .]

9-G. Fuel oil or coal. Fuel oil or coal, the by-products from the burning of which become an ingredient or component part of tangible personal property for later sale.

[1991, c. 851, §1 (NEW) .]

10. Cigarettes.

[1983, c. 855, §6 (RP) .]

11. Sales of liquor.

[1983, c. 859, Pt. M, §§4, 13 (RP) .]

12. Containers. Sale of returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

12-A. Packaging materials. Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to:

A. Persons engaged in the business of:

- (1) Packing or packaging tangible personal property; and
- (2) Shipping or transporting that tangible personal property; or [2011, c. 240, §18 (RPR) .]

B. Persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property; [1995, c. 634, §1 (NEW); 1995, c. 634, §2 (AFF).]

[2011, c. 240, §18 (AMD) .]

13. Bibles.

[1991, c. 546, §19 (RP) .]

14. Publications.

[2013, c. 368, Pt. P, §2 (AFF); 2013, c. 368, Pt. P, §1 (RP) .]

14-A. Free publications and components of publications. Sales of publications and printed materials included in publications as follows:

A. Any publication that is purchased for distribution without charge as a free publication; and [2013, c. 564, §1 (NEW); 2013, c. 564, §3 (AFF).]

B. Printed paper materials, including advertising flyers and promotional materials, purchased for inclusion in a publication. [2013, c. 564, §1 (NEW); 2013, c. 564, §3 (AFF).]

For purposes of this subsection, "publication" means printed paper material, including without limitation newspapers, magazines and trade journals and employee, client and organization newsletters, issued at average intervals not exceeding 3 months that manifests a continuity of identity from issue to issue by a front page masthead bearing the name, date, volume and issue number of the publication and by a continuity of style, format, themes and subject matter. For purposes of this subsection, "publication" does not include printed paper materials consisting primarily of advertisements or the promotion of a single seller's products or services.

[2013, c. 564, §1 (NEW); 2013, c. 564, §3 (AFF) .]

15. Sales to proprietors of unincorporated hospitals.

[1979, c. 687, §5 (RP) .]

16. Hospitals, research centers, churches and schools. Sales to:

A. Incorporated hospitals; [2005, c. 622, §6 (NEW).]

B. Incorporated nonprofit nursing homes licensed by the Department of Health and Human Services; [2005, c. 622, §6 (NEW).]

C. Incorporated nonprofit residential care facilities licensed by the Department of Health and Human Services; [2005, c. 622, §6 (NEW).]

D. Incorporated nonprofit assisted housing programs for the elderly licensed by the Department of Health and Human Services; [2005, c. 622, §6 (NEW).]

E. Incorporated nonprofit home health agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended; [2005, c. 622, §6 (NEW).]

F. Incorporated nonprofit rural community health centers; [2005, c. 622, §6 (NEW).]

G. Incorporated nonprofit dental health centers; [2005, c. 622, §6 (NEW).]

G-1. Incorporated nonprofit medical clinics whose sole mission is to provide free medical care to the indigent or uninsured; [2007, c. 416, §1 (NEW); 2007, c. 416, §2 (AFF).]

H. Incorporated nonprofit organizations organized for the sole purpose of conducting medical research; [2005, c. 622, §6 (NEW).]

I. Incorporated nonprofit organizations organized for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology; [2005, c. 622, §6 (NEW).]

J. Institutions incorporated as nonprofit corporations for the purpose of operating educational television or radio stations; [2005, c. 622, §6 (NEW).]

K. Schools; [2005, c. 622, §6 (NEW).]

L. Incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia; and [2005, c. 622, §6 (NEW).]

M. Regularly organized churches or houses of religious worship. [2005, c. 622, §6 (NEW).]

[2007, c. 416, §1 (AMD); 2007, c. 416, §2 (AFF).]

17. Camps. Rental charged for living quarters, sleeping or housekeeping accommodations at camps entitled to exemption from property tax under section 652, subsection 1.

18. Certain institutions. Rental charged for living or sleeping quarters in an institution licensed by the State for the hospitalization or nursing care of human beings.

18-A. Other institutions. Sales to incorporated private nonprofit residential child caring institutions which are licensed by the Department of Health and Human Services as child caring institutions.

[1975, c. 293, §4 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

19. Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school.

[2003, c. 588, §7 (AMD).]

20. Continuous residence; refunds and credits. Rental charged to any person who resides continuously for 28 days or more at any one hotel, rooming house, tourist camp or trailer camp if:

A. The person does not maintain a primary residence at some other location; or [1989, c. 588, Pt. E, (NEW).]

B. The person is residing away from that person's primary residence in connection with employment or education. [1989, c. 588, Pt. E, (NEW).]

Tax paid by such a person to the retailer under section 1812 during the initial 28-day period must be refunded by the retailer. If the tax has been reported and paid to the State by the retailer, it may be taken as a credit by the retailer on the return filed by the retailer covering the month in which the refund was made to the tenant.

[2007, c. 438, §37 (AMD).]

21. Automobiles used in driver education program. Sales to automobile dealers, registered under section 1754-B, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs.

[1995, c. 640, §5 (AMD).]

21-A. Certain loaner vehicles. The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty.

[2007, c. 627, §47 (AMD) .]

22. Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29-A, section 523, subsection 1. Certificates of exemption or refunds of taxes paid must be granted under such rules or regulations as the State Tax Assessor may prescribe.

[1995, c. 65, Pt. A, §141 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

23. Certain vehicles purchased by nonresidents.

[1999, c. 759, §1 (AMD); T. 36, §1760, sub-§23 (RP) .]

23-A. Truck bodies and trailers.

[1991, c. 788, §7 (RP) .]

23-B. Semitrailers.

[1991, c. 788, §8 (RP) .]

23-C. Certain vehicles purchased or leased by nonresidents. Sales or leases of the following vehicles to a person that is not a resident of this State, if the vehicle is intended to be driven or transported outside the State immediately upon delivery:

A. Motor vehicles, except:

(1) Automobiles rented for a period of less than one year; [2013, c. 86, §2 (AMD); 2013, c. 86, §5 (AFF).]

B. Semitrailers; [1999, c. 759, §2 (NEW); 1999, c. 759, §5 (AFF).]

C. Aircraft, if the property is an aircraft not exempted under subsection 88-A; and [2011, c. 380, Pt. GGGG, §1 (AMD).]

D. [2005, c. 618, §2 (RP).]

E. Camper trailers, including truck campers. [1999, c. 759, §2 (NEW); 1999, c. 759, §5 (AFF).]

If the vehicles are registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

[2013, c. 86, §2 (AMD); 2013, c. 86, §5 (AFF) .]

23-D. Certain vehicles purchased or leased by qualifying resident businesses. The sale or lease of a motor vehicle, except an automobile rented for a period of less than one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.

For purposes of this subsection, "qualifying resident business" includes any individual, association, society, club, general partnership, limited partnership, limited liability company, trust, estate, corporation or any other legal entity that:

A. Is organized under the laws of this State or has its principal place of business in this State; and
[2007, c. 410, §4 (NEW); 2007, c. 410, §6 (AFF).]

B. Conducts business activities from a fixed location or locations outside the State. [2007, c. 410, §4 (NEW); 2007, c. 410, §6 (AFF).]

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

[2007, c. 410, §4 (NEW); 2007, c. 410, §6 (AFF) .]

24. Funeral services. Sales of funeral services.

25. Watercraft purchased by nonresidents. Sales to or use by a person that is not a resident of this State of watercraft or materials used in watercraft as specified in this subsection.

A. The following are exempt when the sale is made in this State to a person that is not a resident of this State and the watercraft is sailed or transported outside the State within 30 days of delivery by the seller:

(1) A watercraft;

(2) Sales, under contract for the construction of a watercraft, of materials to be incorporated in that watercraft; and

(3) Sales of materials to be incorporated in the watercraft for the repair, alteration, refitting, reconstruction, overhaul or restoration of that watercraft. [2009, c. 620, §1 (NEW); 2009, c. 620, §2 (AFF).]

B. The purchase of a watercraft outside this State is exempt if the watercraft is registered outside the State by the purchaser and used outside the State by the purchaser and the watercraft is present in the State not more than 30 days, not including any time spent in this State for temporary storage, during the 12 months following its purchase. For purposes of this paragraph, "used outside the State" does not include storage but means actual use of the watercraft for a purpose consistent with its design. [2011, c. 285, §15 (AFF); 2011, c. 285, §3 (RPR).]

C. If, for a purpose other than temporary storage, a watercraft is present in the State for more than 30 days during the 12-month period following its date of purchase, the exemption is 60% of the sale price of the watercraft or materials for the construction, repair, alteration, refitting, reconstruction, overhaul or restoration of the watercraft, as specified in paragraph A. [2009, c. 620, §1 (NEW); 2009, c. 620, §2 (AFF).]

[2011, c. 285, §3 (AMD); 2011, c. 285, §15 (AFF) .]

25-A. All-terrain vehicles.

[2013, c. 86, §5 (AFF); 2013, c. 86, §3 (RP) .]

25-B. Snowmobiles.

[2013, c. 86, §5 (AFF); 2013, c. 86, §4 (RP) .]

26. Nonprofit fire departments and nonprofit ambulance services. Sales to incorporated nonprofit fire departments, sales to incorporated nonprofit ambulance services, sales to air ambulance services that are limited liability companies all of whose members are nonprofit organizations and sales of tangible personal property leased to air ambulance services that are limited liability companies all of whose members are nonprofit organizations.

[2007, c. 419, §1 (AMD) .]

27. Aircraft purchased by a nonresident.

[1991, c. 788, §9 (RP) .]

28. Community mental health facilities, community adult developmental services facilities and community substance abuse facilities. Sales to mental health facilities, adult developmental services facilities or substance abuse facilities that are:

A. Contractors under or receiving support under the Federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204. [1999, c. 708, §28 (AMD); 2001, c. 354, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

[2011, c. 542, Pt. A, §135 (AMD) .]

29. Water pollution control facilities. Sales of water pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility.

As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Disposal system" means any system used primarily for disposing of or isolating industrial or other waste and includes thickeners, incinerators, pipelines or conduits, pumping stations, force mains and all other constructions, devices, appurtenances and facilities used for collecting or conducting water borne industrial or other waste to a point of disposal, treatment or isolation, except that which is necessary to the manufacture of products. [1973, c. 575, §1 (AMD).]

B. "Facility" means any disposal system or any treatment works, appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling or eliminating water pollution caused by industrial or other waste, except septic tanks and the pipelines and leach fields connected or appurtenant thereto. [1973, c. 575, §1 (AMD).]

C. "Industrial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any process, or the development of any process, of industry or manufacture. [1969, c. 471, (NEW).]

D. "Treatment works" means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial or other waste. [1973, c. 575, §1 (AMD) .]

[2007, c. 438, §42 (AMD) .]

30. Air pollution control facilities. Sales of air pollution control facilities, certified as such by the Commissioner of Environmental Protection, and sales of parts or accessories of a certified facility, materials for the construction, repair or maintenance of a certified facility and chemicals or supplies that are integral to the effectiveness of a certified facility.

As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Facility" means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating or disposing of industrial or other air pollutants.

Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person, and facilities designed or installed for the reduction or control of automobile exhaust emissions shall not be deemed air pollution control facilities for purposes of this subsection. [1973, c. 575, §2 (AMD) .]

[2007, c. 438, §43 (AMD) .]

31. Machinery and equipment. Sales of machinery and equipment:

A. For use by the purchaser directly and primarily in the production of tangible personal property intended to be sold or leased ultimately for final use or consumption or in the production of tangible personal property pursuant to a contract with the Federal Government or any agency thereof, or, in the case of sales occurring after June 30, 2007, in the generation of radio and television broadcast signals by broadcast stations regulated under 47 Code of Federal Regulations, Part 73. This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs; and [2007, c. 627, §48 (AMD) .]

B. To a bank, leasing company or other person as part of a sale and leaseback transaction, by a person that uses the machinery or equipment as described in paragraph A, whether the original purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs. [1999, c. 516, §6 (NEW); 1999, c. 516, §7 (AFF) .]

[2007, c. 627, §48 (AMD) .]

32. Machinery and equipment for research. Sales of machinery and equipment for use by the purchaser directly and exclusively in research and development in the experimental and laboratory sense and sales of machinery, equipment, instruments and supplies for use by the purchaser directly and primarily in biotechnology applications, including the application of technologies such as recombinant DNA techniques, biochemistry, molecular and cellular biology, immunology, genetics and genetic engineering, biological cell fusion techniques and new bioprocesses using living organisms or parts of organisms to produce or modify products, improve plants or animals, develop microorganisms for specific uses, identify targets for small-molecule pharmaceutical development, transform biological systems and useful processes and products or to develop microorganisms for specific uses. Equipment and supplies used for biotechnology include but are not limited to microscopes, diagnostic testing materials, glasswares, chemical reagents, computer software and technical books and manuals. "Research and development" includes testing and evaluation for the purposes of approval and compliance with regulatory standards for biotechnological products or materials. "Research and development" does not include the ordinary testing or inspecting of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

[1997, c. 557, Pt. D, §2 (AMD); 1997, c. 557, Pt. D, §4 (AFF); 1997, c. 557, Pt. G, §1 (AFF) .]

33. Diabetic supplies. All equipment and supplies, whether medical or otherwise, used in the diagnosis or treatment of diabetes;

[1977, c. 238, (RPR) .]

34. Sales through vending machines. Sales of products for internal human consumption when sold through vending machines by a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines.

[2005, c. 218, §23 (AMD) .]

35. Seeing eye dogs. Sales of tangible personal property and taxable services essential for the care and maintenance of seeing eye dogs used to aid any blind person.

[1993, c. 670, §2 (AMD) .]

36. Spirituous and vinous liquors.

[1983, c. 859, Pt. M, §§5, 13 (RP) .]

37. Regional planning commissions and councils of government. Sales to regional planning commissions and councils of government, which are established in accordance with Title 30-A.

[1987, c. 737, Pt. C, §§82, 106 (AMD); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

38. Solar energy equipment.

[1985, c. 506, Pt. B, §34-A (RP) .]

39. Residential water. Sales of water purchased for use in buildings designed and used for both human habitation and sleeping, with the exception of hotels.

[2007, c. 438, §44 (AMD) .]

40. Manufactured housing. Sales of:

A. Used manufactured housing; and [2005, c. 618, §3 (AMD) .]

B. New manufactured housing to the extent of all costs, other than materials, included in the sale price, but the exemption may not exceed 50% of the sale price. [2005, c. 618, §3 (AMD) .]

[2005, c. 618, §3 (AMD) .]

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

A. [1999, c. 759, §3 (NEW); 1999, c. 759, §4 (AFF); T. 36, §1760, sub-§41, ¶ A (RP) .]

B. For purposes of this subsection, personal property is not in use as an instrumentality of interstate or foreign commerce when carrying a bona fide payload that both originates and terminates within the State, unless the personal property is a bus with a capacity of at least 47 passengers that is engaged in transporting within the State a bona fide payload of travelers on an interstate or foreign cruise that originates outside the State and terminates outside the State and the transportation is provided pursuant to a contract between the interstate or foreign cruise provider and the person providing the transportation. [2011, c. 501, §1 (AMD).]

C. The exemption provided by this subsection is not limited to instrumentalities otherwise required to be exempt under the United States Constitution. [2009, c. 361, §19 (NEW); 2009, c. 361, §37 (AFF).]

[2011, c. 501, §1 (AMD) .]

42. Historical societies, museums and certain memorial foundations. Sales to incorporated nonprofit memorial foundations that primarily provide cultural programs free to the public, historical societies and museums.

[2001, c. 439, Pt. PPP, §1 (AMD); 2001, c. 439, Pt. PPP, §2 (AFF) .]

43. Nursery schools and day-care centers. Sales to licensed, incorporated nonprofit nursery schools and day-care centers.

[1983, c. 828, §6 (AMD) .]

44. Certain church affiliated residential homes. Sales to any church affiliated nonprofit organization which operates, under a charter granted by the Legislature, a residential home for adults.

[1983, c. 562, (RAL) .]

45. Certain property purchased outside State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state; [2009, c. 625, §8 (AMD) .]

A-1. [2011, c. 285, §15 (AFF); 2011, c. 285, §4 (RP).]

A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12, section 13001 and the purchaser is an individual who is not a resident of the State; [2007, c. 438, §45 (AMD) .]

A-3. If the property is an aircraft not exempted under subsection 88 or 88-A and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; [2011, c. 622, §2 (AMD) .]

A-4. If the property is brought into this State solely to conduct activities directly related to a declared state disaster or emergency, at the request of the State, a county, city, town or political subdivision of the State or a registered business, the property is owned by a person not otherwise required to register as a seller under section 1754-B and the property is present in this State only during a disaster period.

As used in this paragraph, "declared state disaster or emergency" has the same meaning as in Title 10, section 9902, subsection 1 and "disaster period" means the period of 60 days that begins with the date of the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or major emergency, whichever occurs first; or [2011, c. 2, §40 (COR).]

B. For more than 12 months in all other cases. [1987, c. 772, §22 (RPR).]

Property, other than automobiles, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design.

[2013, c. 331, Pt. C, §8 (AMD).]

46. Medical patients and their families. Sales to incorporated nonprofit organizations providing:

A. Temporary residential accommodations to pediatric patients suffering from critical illness or disease such as cancer or who are accident victims, to adult patients with cancer or to the families of the patients; or [2003, c. 451, Pt. AA, §1 (NEW).]

B. Temporary residential accommodations, or food, or both, to hospital patients or to the families of hospital patients. [2003, c. 451, Pt. AA, §1 (NEW).]

[2003, c. 451, Pt. AA, §1 (RPR).]

46. Scheduled Airlines.

[1985, c. 504, §1 (RP).]

47. Emergency shelters, feeding organizations and emergency food supply programs.

[1995, c. 625, Pt. B, §13 (RPR); T. 36, §1760, sub-§47 (RP).]

47-A. Emergency shelter and feeding organizations. Beginning October 1, 1996, sales to incorporated nonprofit organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State;

[1995, c. 2, §95 (COR).]

48. Scheduled airlines.

[1987, c. 865, §1 (AMD); T. 36, §1760, sub-§48 (RP).]

48. Rail track materials.

[1985, c. 737, Pt. A, §94 (RP).]

49. Child abuse and neglect prevention councils; child advocacy organizations; community action agencies. Sales to:

A. Incorporated, nonprofit child abuse and neglect prevention councils as defined in Title 22, section 3872, subsection 1-A; [2009, c. 204, §12 (AMD).]

B. Statewide organizations that advocate for children and that are members of the Medicaid Advisory Committee; and [1999, c. 499, §1 (NEW).]

C. Community action agencies designated in accordance with Title 22, section 5324. [1999, c. 499, §1 (NEW).]

[2009, c. 204, §12 (AMD) .]

50. Certain libraries. Sales to any nonprofit free public lending library that is funded in part or wholly by the State or any political subdivision or the federal government and sales by any such library or a nonprofit corporation organized to support that library as long as the proceeds from the sales are used to benefit the library.

[2013, c. 420, §1 (AMD) .]

51. Veterans' Memorial Cemetery Associations. Sales to incorporated nonprofit Veterans' Memorial Cemetery Associations;

[1985, c. 737, Pt. A, §95 (RPR) .]

52. Railroad track materials. Railroad track materials purchased and installed on railroad lines located within the boundaries of the State. The track materials shall include rail, ties, ballast, joint bars and associated materials, such as bolts, nuts, tie plates, spikes, culverts, steel, concrete or stone, switch stands, switch points, frogs, switch ties, bridge ties and bridge steel.

In order for a taxpayer to qualify for an exemption under this subsection, the taxpayer may not require any landowner to pay any fee or charge for maintenance or repair or to assume liability for crossings or rights-of-way if the landowner was not required to do so prior to July 1, 1981, and the taxpayer must continue to maintain crossings and rights-of-way which it was required to maintain on that date and may not remove the crossings if there is any objection to their being removed; and

[1985, c. 737, Pt. A, §96 (NEW) .]

53. Nonprofit volunteer search and rescue organizations. Sales to incorporated, nonprofit volunteer search and rescue organizations.

[1985, c. 737, Pt. A, §97 (NEW) .]

54. Food stamp and WIC purchases. Sales of items purchased with federal food stamps or Women, Infants and Children, WIC, Special Supplemental Food Program food instruments distributed by the Department of Health and Human Services.

[2001, c. 396, §23 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

55. Incorporated nonprofit hospice organizations. Sales to incorporated nonprofit hospice organizations which provide a program or care for the physical and emotional needs of terminally ill patients.

[1985, c. 788, §1 (NEW) .]

56. Nonprofit youth organizations. Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting, or to councils and local units of incorporated nonprofit national scouting organizations;

[1989, c. 533, §7 (AMD) .]

57. Self-help literature on alcoholism. Sales of self-help literature relating to alcoholism to alcoholics anonymous groups.

[1987, c. 343, §5 (NEW) .]

58. Portable classrooms. Sales of tangible personal property to be physically incorporated in and become a part of a portable classroom for lease to a school. If the portable classroom is used for an otherwise taxable use within 2 years from the date of the first use, the lessor is liable for use tax based on the original sale price.

[2003, c. 588, §8 (AMD) .]

59. Sales to certain incorporated nonprofit educational organizations. Incorporated nonprofit educational organizations that are receiving, or have received, funding from the Department of Education and that provide educational programs specifically designed for teaching young people how to make decisions about drugs, alcohol and interpersonal relationships at a residential youth camp setting.

[2009, c. 211, Pt. B, §31 (AMD) .]

60. Sales to incorporated nonprofit animal shelters. Sales to incorporated nonprofit animal shelters of tangible personal property used in the operation and maintenance of those shelters or in the maintenance and care of any animal, including wildlife, housed in those shelters.

[1997, c. 545, §1 (AMD) .]

61. Construction contracts with exempt organizations. Sales to a construction contractor or its subcontractor of tangible personal property that is to be physically incorporated in, and become a permanent part of, real property for sale to any organization or government agency provided exemption under this section, except as otherwise provided by section 1760-C.

[2005, c. 622, §8 (AMD) .]

62. Charitable suppliers of medical equipment. Sales to local branches of incorporated international nonprofit charitable organizations that lend medical supplies and equipment to persons free of charge.

[2011, c. 240, §19 (AMD) .]

63. Organizations fulfilling the wishes of children with life-threatening diseases. Sales to incorporated nonprofit organizations whose sole purpose is to fulfill the wishes of children with life-threatening diseases when their family or guardian is unable to otherwise financially fulfill those wishes.

[1989, c. 502, Pt. A, §130 (NEW) .]

64. Schools and school-sponsored organizations. Sales of tangible personal property and taxable services by elementary and secondary schools and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from the sales are used to benefit those schools or student organizations or are used for a charitable purpose.

[2003, c. 588, §10 (AMD) .]

65. Monasteries and convents. Sales of tangible personal property to incorporated nonprofit monasteries and convents for use in their operation and maintenance. For the purpose of this subsection, "monasteries" and "convents" means the dwelling places of communities of religious persons.

[1993, c. 670, §6 (AMD) .]

66. Incorporated nonprofit providers of certain support systems for single-parent families. Sales to incorporated nonprofit organizations engaged primarily in providing support systems for single-parent families for the development of psychological and economic self-sufficiency.

[1989, c. 502, Pt. B, §47 (NEW); 1989, c. 581, §20 (NEW); 1989, c. 871, §12 (RPR) .]

67. Nonprofit home construction organizations. Sales to local branches of incorporated nonprofit organizations whose purpose is to construct low-cost housing for low-income people.

[1989, c. 501, Pt. P, §30 (NEW); 1989, c. 533, §8 (NEW); 1989, c. 871, §13 (RPR) .]

68. Maine Science and Technology Foundation.

[2003, c. 20, Pt. RR, §18 (AFF); 2003, c. 20, Pt. RR, §11 (RP) .]

69. Vietnam veteran registries. Sales to incorporated, nonprofit organizations whose sole purpose is to create, maintain and update a registry of Vietnam veterans;

[1989, c. 533, §8 (NEW) .]

70. Organizations providing certain services for hearing-impaired persons. Sales to incorporated nonprofit organizations whose primary purposes are to promote public understanding of hearing impairment and to assist hearing-impaired persons through the dissemination of information about hearing impairment to the general public and referral to and coordination of community resources available to hearing-impaired persons.

[1989, c. 533, §8 (NEW); 1989, c. 871, §14 (AMD) .]

71. State-chartered credit unions. Sales to credit unions that are organized under the laws of this State. This subsection shall remain in effect only for the time that federally chartered credit unions are, by reason of federal law, exempt from payment of state sales tax.

[1989, c. 533, §8 (NEW) .]

72. Nonprofit housing development organization. Sales to nonprofit organizations whose primary purpose is to develop housing for low-income people.

[1999, c. 708, §30 (AMD) .]

73. Seedlings for commercial forestry use. Sales of tree seedlings for use in commercial forestry. This subsection takes effect September 1, 1990.

[1989, c. 871, §15 (NEW) .]

74. Property used in production. Sales of:

A. Tangible personal property that becomes an ingredient or component part of tangible personal property produced for later sale or lease, other than lease for use in this State, or that becomes an ingredient or component part of tangible personal property produced pursuant to a contract with the Federal Government or an agency of the Federal Government; and [2007, c. 438, §46 (NEW) .]

B. Tangible personal property, other than fuel or electricity, that is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property for later sale or lease, other than lease for use in this State, or that is consumed or destroyed or loses its identity directly and primarily in the production of tangible personal property produced pursuant to a contract with the Federal Government or an agency of the Federal Government. [2007, c. 438, §46 (NEW) .]

For purposes of this subsection, tangible personal property is "consumed or destroyed" or "loses its identity" in production if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied.

[2007, c. 438, §46 (RPR) .]

75. Certain meals and lodging. Meals or lodging provided to employees at their place of employment when the value of those meals or that lodging is allowed as a credit toward the wages of those employees.

[1989, c. 871, §15 (NEW) .]

76. Aircraft parts. The sale or use in this State of replacement or repair parts of an aircraft used by a scheduled airline in the performance of service under 49 United States Code, Subtitle VII and Federal Aviation Administration regulations.

[2003, c. 588, §11 (AMD) .]

77. Eye banks. Sales to nonprofit organizations whose primary purpose is to obtain, medically evaluate and distribute eyes for use in corneal transplantation, research and education.

[1993, c. 532, §1 (NEW) .]

78. Farm animal bedding and hay. Sales of organic bedding materials for farm animals and hay.

[1997, c. 725, §1 (RPR) .]

79. Partial exemption for clean fuel vehicles.

[1997, c. 791, Pt. A, §2 (NEW); T. 36, §1760, sub-§79 (RP) .]

80. Electricity used for net billing. Sale or delivery of kilowatt hours of electricity to net energy billing customers as defined by the Public Utilities Commission for which no money is paid to the electricity provider or to the transmission and distribution utility.

[1999, c. 286, §1 (NEW) .]

80. (REALLOCATED TO T. 36, §1760, sub-§82) Sales of property delivered outside this State.

[1999, c. 1, §48 (RAL); 1999, c. 414, §22 (NEW); 1999, c. 414, §55 (AFF) .]

81. Animal waste storage facility. Any materials for the construction, repair or maintenance of an animal waste storage facility. For the purposes of this section, "animal waste storage facility" means a structure or pit constructed and used solely for storing manure, animal bedding waste or other wastes generated by animal production. For a facility to be eligible for this exemption, the Commissioner of Agriculture, Conservation and Forestry must certify that a nutrient management plan has been prepared in accordance with Title 7, section 4204 for the farm utilizing that animal waste storage facility.

[1999, c. 530, §10 (NEW); 2011, c. 657, Pt. W, §6 (REV) .]

81. (REALLOCATED TO T. 36, §1760, sub-§83) Sales of certain printed materials.

[1999, c. 1, §49 (RAL); 1999, c. 521, Pt. A, §7 (NEW); 1999, c. 521, Pt. A, §11 (AFF) .]

82. (REALLOCATED FROM T. 36, §1760, sub-§80) Sales of property delivered outside this State.

Sales of tangible personal property when the seller delivers the property to a location outside this State or to the United States Postal Service, a common carrier or a contract carrier hired by the seller for delivery to a location outside this State, regardless of whether the property is purchased F.O.B. shipping point or other point in this State and regardless of whether passage of title occurs in this State. This exemption does not apply to any subsequent use of the property in this State.

[2007, c. 627, §49 (AMD) .]

83. (REALLOCATED FROM T. 36, §1760, sub-§81) Sales of certain printed materials. Sales of advertising or promotional materials printed on paper and purchased for the purpose of subsequently transporting such materials outside the State for use by the purchaser thereafter solely outside the State.

[1999, c. 1, §49 (RAL) .]

84. Centers for innovation. Sales to centers for innovation as described in Title 5, section 13141.

[2001, c. 95, §6 (NEW) .]

84. (REALLOCATED TO T. 36, §1760, sub-§85) Certain sales by auxiliary organization of American Legion.

[2001, c. 1, §45 (RAL); 2001, c. 439, Pt. III, §1 (NEW); 2001, c. 439, Pt. III, §2 (AFF) .]

85. (REALLOCATED FROM T. 36, §1760, sub-§84) Certain sales by auxiliary organization of American Legion. Sales of meals and related items and services by a nonprofit auxiliary organization of the American Legion in connection with a fund-raising event sponsored by the auxiliary organization if the meals and related items and services are provided in a room that is separate from the lounge facilities, if any, of the American Legion and patrons are prohibited from taking alcoholic beverages from the lounge facilities to the separate room where the meals and related items and services are provided.

[2001, c. 1, §45 (RAL) .]

86. Construction contracts with qualified development zone businesses.

[2005, c. 351, §26 (AFF); 2005, c. 351, §7 (RP) .]

87. Sales of tangible personal property and transmission and distribution of electricity to qualified development zone businesses. Beginning July 1, 2005, sales of tangible personal property, and of the transmission and distribution of electricity, to a qualified Pine Tree Development Zone business, as defined in Title 30-A, section 5250-I, subsection 17, for use directly and primarily in one or more qualified business activities, as defined in Title 30-A, section 5250-I, subsection 16. The exemption provided by this subsection is limited for each qualified Pine Tree Development Zone business to sales occurring within a period of 10 years in the case of a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, and 5 years in the case of a business located in a tier 2 location, as defined in Title 30-A, section 5250-I, subsection 21-B, from the date the business is certified pursuant to Title 30-A, section 5250-O or until December 31, 2028, whichever occurs first. As used in this subsection, "primarily" means more than 50%

of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, scrapped, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

[2011, c. 285, §5 (AMD) .]

88. Aircraft. Sales or leases of aircraft that weigh over 6,000 pounds, that are propelled by one or more turbine engines or that are in use by a Federal Aviation Administration classified 135 operator.

[2005, c. 519, Pt. EE, §2 (NEW); 2005, c. 519, Pt. EE, §3 (AFF) .]

88-A. Aircraft and parts. Sales, use or leases of aircraft and sales of repair and replacement parts exclusively for use in aircraft or in the significant overhauling or rebuilding of aircraft or aircraft parts or components from July 1, 2011 to June 30, 2033.

[2013, c. 379, §2 (AMD) .]

89. Sales of tangible personal property to qualified community wind power generators. Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section 2017, subsection 1, paragraph B, for use directly and primarily in the generation of electricity in this State at a community wind power generation facility, as defined in section 2017, subsection 1, paragraph A-1. The exemption provided by this subsection is limited to sales occurring on or before December 31, 2011.

[2007, c. 693, §15 (AMD); 2007, c. 693, §37 (AFF) .]

90. Qualified snowmobile trail grooming equipment. Sales to snowmobile clubs incorporated under the provisions of Title 13-B of snowmobiles and snowmobile trail grooming equipment used directly and exclusively for the grooming of snowmobile trails.

(Subsection 90 as enacted by PL 2007, c. 438, §47 is REALLOCATED TO TITLE 36, SECTION 1760, SUBSECTION 91)

[2009, c. 491, §1 (AMD) .]

91. (REALLOCATED FROM T. 36, §1760, sub-§90) Certain sales of electrical energy. Sale or use of electrical energy, or water stored for the purpose of generating electricity, when the sale is to or by a wholly owned subsidiary by or to its parent corporation, except for electrical energy or water purchased for resale to or by the wholly owned subsidiary.

[2007, c. 695, Pt. A, §44 (RAL) .]

92. Certain vehicle rentals. The rental for a period of less than one year of an automobile when the rental is to the service customer of a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, pursuant to a manufacturer's or new vehicle dealer's warranty and the rental fee is paid by that new vehicle dealer or warrantor.

[2011, c. 209, §3 (NEW); 2011, c. 209, §5 (AFF) .]

93. Plastic bags sold to redemption centers. Sales to a local redemption center licensed under Title 32, section 1871-A of plastic bags used by the redemption center to sort, store or transport returnable beverage containers.

[2011, c. 380, Pt. FFFF, §1 (NEW); 2011, c. 380, Pt. FFFF, §2 (AFF) .]

94. Positive airway pressure equipment and supplies. Positive airway pressure equipment and supplies sold or leased for personal use.

[2011, c. 655, Pt. PP, §3 (NEW); 2011, c. 655, Pt. PP, §4 (AFF) .]

95. Sales of certain adaptive equipment. Sales to a person with a disability or a person at the request of a person with a disability of adaptive equipment for installation in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability who is issued a disability plate or placard by the Secretary of State pursuant to Title 29-A, section 521.

[2013, c. 442, §1 (NEW); 2013, c. 442, §2 (AFF) .]

SECTION HISTORY

1965, c. 257, (AMD). 1967, c. 46, (AMD). 1967, c. 89, (AMD). 1967, c. 116, (AMD). 1967, c. 211, (AMD). 1969, c. 24, (AMD). 1969, c. 223, §1 (AMD). 1969, c. 471, (AMD). 1969, c. 590, §68 (AMD). 1971, c. 23, (AMD). 1971, c. 353, §§1,2 (AMD). 1971, c. 507, (AMD). 1971, c. 508, (AMD). 1971, c. 604, (AMD). 1971, c. 618, §12 (AMD). 1971, c. 622, §126 (AMD). P&SL 1973, c. 148, §B5 (AMD). 1973, c. 573, (AMD). 1973, c. 575, §§1,2 (AMD). 1973, c. 580, §1 (AMD). 1973, c. 593, (AMD). 1973, c. 594, (AMD). 1973, c. 766, §1 (AMD). 1973, c. 788, §§186,187 (AMD). 1973, c. 794, (AMD). 1975, c. 279, (AMD). 1975, c. 293, §4 (AMD). 1975, c. 527, (AMD). 1975, c. 623, §57 (AMD). 1975, c. 741, §33 (AMD). 1975, c. 773, (AMD). 1977, c. 238, (AMD). 1977, c. 342, §2 (AMD). 1977, c. 443, §§2,3 (AMD). 1977, c. 477, §§10,11 (AMD). 1977, c. 542, §4 (AMD). 1977, c. 559, (AMD). 1977, c. 572, §1 (AMD). 1977, c. 686, §§1-3 (AMD). 1977, c. 696, §§273-A (AMD). 1977, c. 716, §1 (AMD). 1979, c. 292, §§2,3 (AMD). 1979, c. 513, §§1,2 (AMD). 1979, c. 520, §5 (AMD). 1979, c. 528, (AMD). 1979, c. 663, §§220,221 (AMD). 1979, c. 686, §2 (AMD). 1979, c. 687, §§5-7 (AMD). 1981, c. 163, §§3,4 (AMD). 1981, c. 470, §A156 (AMD). 1981, c. 493, §2 (AMD). 1981, c. 502, (AMD). 1981, c. 702, §VI (AMD). 1981, c. 705, §K (AMD). 1981, c. 706, §21 (AMD). 1983, c. 519, §24 (AMD). 1983, c. 560, §§2,3,6 (AMD). 1983, c. 562, (AMD). 1983, c. 571, §2 (AMD). 1983, c. 583, §§23,24 (AMD). 1983, c. 828, §§5,6 (AMD). 1983, c. 851, (AMD). 1983, c. 852, §§2,3 (AMD). 1983, c. 854, (AMD). 1983, c. 855, §§6,7 (AMD). 1983, c. 859, §§M4-M6,M13 (AMD). 1985, c. 276, §§3,4 (AMD). 1985, c. 417, (AMD). 1985, c. 419, (AMD). 1985, c. 460, §§1,2 (AMD). 1985, c. 473, (AMD). 1985, c. 477, §1 (AMD). 1985, c. 504, §§1,2 (AMD). 1985, c. 506, §§B34-A (AMD). 1985, c. 535, §§2,3 (AMD). 1985, c. 691, §§10-15 (AMD). 1985, c. 737, §§A94-97 (AMD). 1985, c. 767, §3 (AMD). 1985, c. 783, §4 (AMD). 1985, c. 788, §1 (AMD). 1985, c. 819, §§A40-43 (AMD). 1987, c. 343, §§4-6 (AMD). 1987, c. 497, §§36-39 (AMD). 1987, c. 522, §1 (AMD). 1987, c. 737, §§C82,C106 (AMD). 1987, c. 769, §§A153,A154 (AMD). 1987, c. 772, §§21,22 (AMD). 1987, c. 798, §1 (AMD). 1987, c. 822, (AMD). 1987, c. 824, (AMD). 1987, c. 865, §1 (AMD). 1987, c. 895, (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 28, (AMD). 1989, c. 104, §§C8,C10 (AMD). 1989, c. 130, (AMD). 1989, c. 501, §§P30,U,V4,5 (AMD). 1989, c. 502, §§A129,130 (AMD). 1989, c. 502, §B46, 47 (AMD). 1989, c. 533, §§5-8 (AMD). 1989, c. 571, §A4 (AMD). 1989, c. 581, §20 (AMD). 1989, c. 588, §E (AMD). 1989, c. 700, §A169 (AMD). 1989, c. 847, §2 (AMD). 1989, c. 871, §§10-15 (AMD). 1989, c. 875, §E47 (AMD). 1989, c. 878, §A105 (AMD). 1989, c. 890, §§A10,11,40 (AMD). 1991, c. 317, (AMD). 1991, c. 528, §§N1,WW3 (AMD). 1991, c.

528, §§N2,WW4,RRR (AFF). 1991, c. 546, §§17-22 (AMD). 1991, c. 591, §§N1,WW3 (AMD). 1991, c. 591, §§N2,WW4 (AFF). 1991, c. 620, (AMD). 1991, c. 788, §§6-9 (AMD). 1991, c. 824, §A73 (AMD). 1991, c. 846, §§18-22 (AMD). 1991, c. 851, §1 (AMD). 1993, c. 395, §15 (AMD). 1993, c. 410, §E23 (AMD). 1993, c. 532, §1 (AMD). 1993, c. 670, §§2-6 (AMD). RR 1995, c. 2, §§94,95 (COR). 1995, c. 65, §§A141,142 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1995, c. 281, §§15,16 (AMD). 1995, c. 420, §1 (AMD). 1995, c. 462, §B9 (AMD). 1995, c. 467, §§15-17 (AMD). 1995, c. 478, §1 (AMD). 1995, c. 478, §2 (AFF). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1995, c. 625, §§B13,14 (AMD). 1995, c. 634, §1 (AMD). 1995, c. 634, §2 (AFF). 1995, c. 640, §5 (AMD). 1997, c. 545, §1 (AMD). 1997, c. 550, §§1,2 (AMD). 1997, c. 557, §D2 (AMD). 1997, c. 557, §§D4,G1 (AFF). 1997, c. 668, §24 (AMD). 1997, c. 723, §1 (AMD). 1997, c. 725, §1 (AMD). 1997, c. 729, §A1 (AMD). 1997, c. 791, §A2 (AMD). RR 1999, c. 1, §§48,49 (COR). 1999, c. 286, §1 (AMD). 1999, c. 414, §§19-22 (AMD). 1999, c. 414, §55 (AFF). 1999, c. 485, §1 (AMD). 1999, c. 499, §1 (AMD). 1999, c. 502, §§1-3 (AMD). 1999, c. 516, §6 (AMD). 1999, c. 516, §7 (AFF). 1999, c. 521, §§A6,7 (AMD). 1999, c. 521, §A11 (AFF). 1999, c. 530, §10 (AMD). 1999, c. 657, §21 (AMD). 1999, c. 708, §§25-30 (AMD). 1999, c. 708, §52 (AFF). 1999, c. 759, §§1-3 (AMD). 1999, c. 759, §§4,5 (AFF). RR 2001, c. 1, §45 (COR). 2001, c. 95, §6 (AMD). 2001, c. 354, §3 (AMD). 2001, c. 396, §23 (AMD). 2001, c. 439, §PPP1 (AMD). 2001, c. 439, §III1 (AMD). 2001, c. 439, §III2 (AFF). 2001, c. 439, §PPP2 (AFF). 2001, c. 682, §1 (AMD). 2001, c. 682, §2 (AFF). 2001, c. 709, §1 (AMD). 2001, c. 714, §Z1 (AMD). 2003, c. 20, §§Z1,RR11 (AMD). 2003, c. 20, §RR18 (AFF). 2003, c. 390, §10 (AMD). 2003, c. 414, §§B61-63 (AMD). 2003, c. 414, §D7 (AFF). 2003, c. 451, §§AA1,NNN3 (AMD). 2003, c. 588, §§6-11 (AMD). 2003, c. 614, §9 (AFF). 2003, c. 688, §§B12,D3 (AMD). 2003, c. 688, §B13 (AFF). 2003, c. 689, §B6 (REV). 2003, c. 695, §B25 (AMD). 2003, c. 695, §C1 (AFF). 2003, c. 705, §4 (AMD). 2003, c. 705, §14 (AFF). 2005, c. 12, §§S1,GGG1,2 (AMD). 2005, c. 218, §§22-24 (AMD). 2005, c. 351, §§7,8 (AMD). 2005, c. 351, §26 (AFF). 2005, c. 519, §§EE1,2 (AMD). 2005, c. 519, §EE3 (AFF). 2005, c. 618, §§2,3 (AMD). 2005, c. 622, §§5-8 (AMD). 2005, c. 646, §5 (AMD). 2007, c. 240, Pt. WWWW, §2 (AMD). 2007, c. 410, §§3, 4 (AMD). 2007, c. 410, §6 (AFF). 2007, c. 416, §1 (AMD). 2007, c. 416, §2 (AFF). 2007, c. 419, §1 (AMD). 2007, c. 429, §2 (AMD). 2007, c. 429, §3 (AFF). 2007, c. 438, §§33-47 (AMD). 2007, c. 529, §§1-3 (AMD). 2007, c. 627, §§47-49 (AMD). 2007, c. 675, §1 (AMD). 2007, c. 675, §2 (AFF). 2007, c. 693, §15 (AMD). 2007, c. 693, §37 (AFF). 2007, c. 695, Pt. A, §44 (AMD). 2009, c. 204, §12 (AMD). 2009, c. 211, Pt. B, §§30, 31 (AMD). 2009, c. 361, §§18, 19 (AMD). 2009, c. 361, §37 (AFF). 2009, c. 422, §1 (AMD). 2009, c. 434, §§24, 25 (AMD). 2009, c. 491, §1 (AMD). 2009, c. 620, §1 (AMD). 2009, c. 620, §2 (AFF). 2009, c. 625, §§6-8 (AMD). 2009, c. 627, §6 (AMD). 2009, c. 627, §12 (AFF). 2009, c. 632, §1 (AMD). RR 2011, c. 2, §40 (COR). 2011, c. 209, §3 (AMD). 2011, c. 209, §5 (AFF). 2011, c. 240, §§17-19 (AMD). 2011, c. 285, §§3-5 (AMD). 2011, c. 285, §15 (AFF). 2011, c. 380, Pt. DDDD, §§2-4 (AMD). 2011, c. 380, Pt. DDDD, §§5, 6 (AFF). 2011, c. 380, Pt. FFFF, §1 (AMD). 2011, c. 380, Pt. FFFF, §2 (AFF). 2011, c. 380, Pt. GGGG, §§1-3 (AMD). 2011, c. 501, §1 (AMD). 2011, c. 542, Pt. A, §135 (AMD). 2011, c. 548, §§15, 16 (AMD). 2011, c. 622, §§2, 3 (AMD). 2011, c. 655, Pt. PP, §3 (AMD). 2011, c. 655, Pt. PP, §4 (AFF). 2011, c. 657, Pt. N, §1 (AMD). 2011, c. 657, Pt. N, §3 (AFF). 2011, c. 657, Pt. W, §6 (REV). 2011, c.

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§1760-A. LEGISLATIVE REVIEW OF SALES TAX EXEMPTIONS

(REPEALED)

SECTION HISTORY

1977, c. 490, §4 (NEW). 1977, c. 696, §274 (AMD). 1979, c. 687, §8 (RPR). 1985, c. 691, §16 (RP).

§1760-B. CONSISTENCY

(REPEALED)

SECTION HISTORY

1985, c. 691, §17 (NEW). 1997, c. 526, §14 (AMD). 2009, c. 434, §26 (RP).

§1760-C. EXEMPT ACTIVITIES

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing property or services intended to be used by the holder primarily in the exempt activity. If the holder of an exemption certificate furnishes that certificate to a person for use in purchasing tangible personal property or taxable services that are physically incorporated in, and become a permanent part of, real property that is not used by the holder of the certificate primarily in the exempt activity, the State Tax Assessor may assess the unpaid tax against the holder of the certificate as provided in section 141. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases. [2007, c. 437, §11 (AMD).]

SECTION HISTORY

1999, c. 521, §A8 (NEW). 1999, c. 708, §31 (AMD). 2005, c. 622, §9 (AMD). 2007, c. 437, §11 (AMD).

§1760-D. EXEMPTIONS OF CERTAIN PRODUCTS; INFORMATION POSTED ON PUBLICLY ACCESSIBLE WEBSITE

1. List of products. The assessor shall post on the bureau's publicly accessible website, and update quarterly, a list of products used in commercial agricultural or silvicultural crop production or in animal agricultural production with respect to which the assessor has made a written determination on the applicability of a sales tax exemption under section 1760, subsection 7-B or 7-C and of items of depreciable machinery and equipment that the assessor has determined may be eligible for a refund of sales tax under section 2013. In the case of products exempt from tax under section 1760, subsection 7-B or 7-C, the list must include the name of the product and any other information necessary to identify the product at the point of sale.

When the assessor receives a request in writing for a determination as to whether or not a product used in commercial agricultural or silvicultural crop production or in animal agricultural production is exempt from sales tax under section 1760, subsection 7-B or 7-C, the assessor shall respond in writing.

[2011, c. 285, §6 (AMD); 2011, c. 285, §15 (AFF) .]

2. Information on procedures for appeals and refunds. The assessor shall provide information on the bureau's publicly accessible website regarding the procedures for:

A. Requesting a refund of sales tax paid on an exempt product; [2011, c. 285, §6 (NEW); 2011, c. 285, §15 (AFF).]

B. Appealing an assessment of tax liability; and [2011, c. 285, §6 (NEW); 2011, c. 285, §15 (AFF).]

C. Appealing the denial of an exemption certificate or refund request under section 2013. [2011, c. 285, §6 (NEW); 2011, c. 285, §15 (AFF).]

[2011, c. 285, §6 (AMD); 2011, c. 285, §15 (AFF) .]

SECTION HISTORY

2009, c. 632, §2 (NEW). 2011, c. 285, §6 (AMD). 2011, c. 285, §15 (AFF) .

§1761. ADVERTISING OF PAYMENT BY RETAILER

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any consumer, directly or indirectly, that the tax or any part thereof imposed by chapters 211 to 225 will be assumed or absorbed by the retailer, or that it will not be added to or included in the selling price of the property sold, or if added or included that it or any part thereof will be refunded. Any person violating any part of this section shall be guilty of a Class E crime. [1979, c. 541, Pt. A, §221 (AMD) .]

SECTION HISTORY

1977, c. 696, §275 (AMD). 1979, c. 541, §A221 (AMD) .

§1762. SALE OF BUSINESS; PURCHASER LIABLE FOR TAX

(REPEALED)

SECTION HISTORY

1985, c. 535, §4 (AMD). 1991, c. 846, §39 (AFF). 1991, c. 846, §23 (RP) .

§1763. PRESUMPTIONS

The burden of proving that a transaction was not taxable is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale. [2007, c. 693, §16 (AMD) .]

SECTION HISTORY

2007, c. 693, §16 (AMD) .

§1764. TAX AGAINST CERTAIN CASUAL SALES

The tax imposed by this Part must be levied upon all casual rentals of living quarters in a hotel, rooming house, tourist camp or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment, watercraft or aircraft unless the property is sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of 50% or more of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership. This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented. For purposes of this section, "special mobile equipment" does not include farm tractors and lumber harvesting vehicles or loaders. [2013, c. 331, Pt. C, §9 (AMD).]

SECTION HISTORY

1975, c. 317, §2 (AMD). 1987, c. 49, §2 (AMD). 1987, c. 128, §2 (AMD). 1987, c. 769, §A155 (RPR). 1989, c. 508, §12 (AMD). 1989, c. 588, §C3 (AMD). 1989, c. 878, §A106 (RPR). 1991, c. 546, §23 (AMD). 1995, c. 281, §17 (AMD). 1997, c. 133, §2 (AMD). 1999, c. 518, §1 (AMD). 2005, c. 12, §O3 (AMD). 2005, c. 12, §O5 (AFF). 2005, c. 218, §25 (AMD). 2007, c. 375, §2 (AMD). 2011, c. 548, §17 (AMD). 2013, c. 331, Pt. C, §9 (AMD).

§1765. TRADE-IN CREDIT

When one or more items in one of the following categories are traded in toward the sale price of another item in that same category, the tax imposed by this Part must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. This section does not apply to transactions between dealers involving exchange of the property from inventory: [2007, c. 627, §50 (AMD); 2007, c. 627, §96 (AFF).]

1. Motor vehicles. Motor vehicles;

[1987, c. 402, Pt. A, §180 (RPR) .]

3. Watercraft. Watercraft;

[1989, c. 588, Pt. C, §4 (RPR) .]

4. Aircraft. Aircraft;

[1987, c. 402, Pt. A, §180 (RPR) .]

6. Chain saws. Chain saws;

[1987, c. 402, Pt. A, §180 (RPR) .]

7. Special mobile equipment. Special mobile equipment; or

[2009, c. 207, §2 (AMD) .]

8. Trailers and truck campers. Trailers and truck campers.

[2009, c. 207, §3 (AMD) .]

9. Truck campers.

[2009, c. 207, §4 (RP) .]

The trade-in credit allowed by this section is not available unless the items traded are in the same category. The tax must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. [2009, c. 207, §5 (AMD).]

SECTION HISTORY

1967, c. 108, (AMD). P&SL 1969, c. 154, §G1 (REEN). 1969, c. 295, §1 (RP). 1975, c. 317, §3 (AMD). 1975, c. 528, (AMD). 1975, c. 765, §20 (RPR). 1977, c. 686, §4 (RPR). 1979, c. 541, §A222 (AMD). 1985, c. 519, (RPR). 1987, c. 49, §§3,4 (AMD). 1987, c. 128, §3 (AMD). 1987, c. 402, §A180 (RPR). 1987, c. 467, §§1,2 (AMD). 1989, c. 533, §9 (AMD). 1989, c. 588, §C4 (AMD). 1997, c. 133, §§3,4 (AMD). 1999, c. 518, §2 (AMD). 2007, c. 375, §3 (AMD). 2007, c. 627, §50 (AMD). 2007, c. 627, §96 (AFF). 2009, c. 207, §§2-5 (AMD).

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